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Oaktree Capital Management, LLC and TBR Property, LLC, a single employer, d/b/a Turtle Bay Resorts, and Benchmark Hospitality, Inc. and UNITE HERE! Local 5. Cases 37–CA–6601–1, 37–CA–6642–1, 37–CA–6669–1, 37–CA–6691–1, 37–CA–6730–1, 37–CA–6753–1, 37–CA–6756–1, 37–CA–6768–1, 37–CA–6816–1, 37–CA–6826–1, 37–CA–6827–1, 37–CA–6835–1, 37–CA–6840–1, 37–CA–6875–1, 37–CA–6877–1, and 37–CA–6878–1

August 27, 2010

DECISION AND ORDER REMANDING

BY CHAIRMAN LIEBMAN AND MEMBERS SCHAUMBER
AND HAYES

On March 31, 2009, the two sitting members of the Board issued a Decision and Order Remanding in this proceeding, which is reported at 353 NLRB No. 127.¹ Thereafter, the Respondent filed a petition for review in the United States Court of Appeals for the Fifth Circuit, and the General Counsel filed a cross-application for enforcement. On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel*,

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

L.P. v. NLRB, 130 S.Ct. 2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegatee group of at least three members must be maintained. Thereafter, the court of appeals remanded this case for further proceedings consistent with the Supreme Court's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.²

The Board has considered the judge's decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions and to adopt the recommended Order to the extent and for the reasons stated in the decision reported at 353 NLRB No. 127, which is incorporated herein by reference.

Dated, Washington, D.C. August 27, 2010

Wilma B. Liebman, Chairman

Peter C. Schaumber, Member

Brian E. Hayes, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

² Consistent with the Board's general practice in cases remanded from the courts of appeals, and for reasons of administrative economy, the panel includes the members who participated in the original decision. Furthermore, under the Board's standard procedures applicable to all cases assigned to a panel, the Board Members not assigned to the panel had the opportunity to participate in the adjudication of this case at any time up to the issuance of this decision.